



FW: Dairyland Farms LLC Notice of Noncompliance
Schiefelbein, Jeremiah J - DNR to: Cheryl Burdett

06/06/2012 02:34 PM

History:

This message has been replied to and forwarded.

2 attachments



6-6-12 NON Dairyland Farms.pdf Open Burning Fact Sheet.pdf

Jay Schiefelbein

Wisconsin Department of Natural Resources

Agricultural Runoff Management Specialist

(☎) phone: (920) 662-5407 (Green Bay)

(☎) fax: (920) 662-5413 (Green Bay)

(✉) e-mail: Jeremiah.Schiefelbein@wisconsin.gov

From: Schiefelbein, Jeremiah J - DNR

Sent: Wednesday, June 06, 2012 12:54 PM

To: Exemption 6 and Exemption 7C Dairyland Farms

Cc: Schiefelbein, Jeremiah J - DNR; Jones, Casey L - DNR; Bauman, Thomas S - DNR; Stoll, Richard C - DNR; Wetenkamp_DL (Wetenkamp_DL@co.brown.wi.us)

Subject: Dairyland Farms LLC Notice of Noncompliance

<http://roadwaystandards.dot.wi.gov/standards/stndspec/Sect630.pdf>

Good afternoon,

Attached is the notice of noncompliance for Dairyland Farms LLC along with an open burning factsheet and an internet link to DOT's standard specs for seeding. The signed original will be sent in today's mail.

Jay Schiefelbein

Wisconsin Department of Natural Resources

Agricultural Runoff Management Specialist

(☎) phone: (920) 662-5407 (Green Bay)

(☎) fax: (920) 662-5413 (Green Bay)

(✉) e-mail: Jeremiah.Schiefelbein@wisconsin.gov



June 6, 2012

Larry Dufek
Dairyland Farms LLC
5424 Gauthier Road
New Franken, WI 54229

**Subject: Notice of Noncompliance
Materials Requested by June 22, 2012**

Dear Mr. Dufek,

This notice is to advise you that the Department of Natural Resources (Department) has reason to believe that Dairyland Farms LLC is in violation of its WPDES permit discharge requirements and of Chapter NR 429. The following alleged violations were noted during an inspection of your facility on May 29, 2012:

1. Section 1.1 of Dairyland's WPDES Permit states "The permittee may not discharge pollutants to navigable waters under any circumstances..."
2. Section NR 429.04, Wisconsin Administrative Code: Open burning is prohibited unless exempted.

On April 18, 2012, Department of Natural Resources (Department) Agricultural Runoff Management Specialists Casey Jones and I along with Brown County Land Conservation (Brown County) representative Jon Bechle responded to a complaint regarding Dairyland Farms LLC (Dairyland) and also conducted an inspection of the vegetated treatment area (VTA). The April 18, 2012 inspection revealed dead vegetation, concentrated flow channels, and gully erosion in the VTA.

During a phone call on April 24, 2012 and in a follow up a letter dated April 26, 2012 the Department brought concerns regarding the VTA to your attention. During the phone call you stated that the problems with the VTA would be promptly addressed. Photographic documentation of the re-graded and properly stabilized VTA in addition to any operational changes regarding the management of the VTA were to be submitted by May 11, 2012.

In a letter dated May 10, 2012, you stated that the pumping time for the VTA was increased and that the area had been reseeded but due to heavy rainfall, would have to be seeded again. Photographs were not submitted.

On Thursday May 24, 2012 I was notified by EPA that a site inspection was to be conducted at Dairyland Farm LLC (Dairyland). During flyovers on April 23, 2012 EPA identified Dairyland's VTA as a potential direct discharge of pollutants to surface waters. Subsequently, the Department conducted a follow up inspection of Dairyland on Tuesday, May 29, 2012. Although there was evidence that the VTA had been seeded, the seed did not take, gully erosion, and the potential for discharge to surface waters was still clearly evident. Also noted was corn silage stored directly on the ground, extending approximately 30 feet beyond the southern edge of the designed feed storage pad. Leachate was ponded further south but had not yet entered the VTA. Additionally, while inspecting the production area a smell of burning garbage was noted and smoke was observed coming out of structure that appears to be used commonly to burn material. Silage bags were stored in front of the structure.

After the inspection the Department met with you and Dan Davister to discuss the observations. I described the concerns with the direct discharge to the unnamed tributary to School Creek, the improperly stored feed, and the open burning that was witnessed.

Dairyland Farms LLC
Notice of Noncompliance
June 6, 2012

You and Davister stated that work would begin immediately on the VTA to re-grade and reseed the area. We also discussed adding gravel spreader bars to encourage sheet flow through the VTA and minimize the likelihood of gully erosion. Discussions also involved expanding the VTA to the south. This expansion would allow one portion of the VTA to remain functional in the event that the other portion required maintenance, thereby allowing time for the vegetation to become established. On Thursday, May 31, 2012 I received an email from Mr. Davister showing the re-graded VTA and the installation of ditch checks near the outlet of the VTA. For a permanent alteration, the berm between the VTA and the creek should be extended to close off the current outlet of the VTA to the UNT to School Creek.

Regarding the feed storage, you stated that the corn silage would be moved onto the feed pad beginning the week of June 4, 2012. We further discussed that feed should not be placed directly on the edge of the feed pad as this may result in leachate runoff that is not collected by the runoff control system. You also stated your plans to extend the feed storage pad south to accommodate more feed.

Regarding the open burning, you stated that pallets other wood items are burned occasionally. The contents within the burn structure were not examined, however, based on the smell and the silage bags placed in front of the structure, there is reason to believe that material other than clean wood was being burned.

The Department is concerned with the potential for continued discharges to the unnamed tributary to School Creek, the improperly stored feed, and the burning that occurs at Dairyland. Please submit the following items to my attention at the address in the letterhead by **June 22, 2012**:

- Photographic documentation of the work completed on the VTA and a timeline to implement additional permanent measures to the VTA, including but not limited to: an additional spreader bar to reduce the amount of solids entering the VTA, closing off the VTA's outlet, and expanding the VTA to the south. Please review the attached Section 630 Seeding from DOT's Standard Specifications. This may assist you with selecting a more appropriate seed mix for the VTA.
- Photographic documentation that all feed stored directly on the ground has been moved onto the feed pad. Additionally, provide documentation that the area south of the feed pile has been properly restored (ponded leachate and accumulation of waste feed has been properly disposed of).
- Landfill or other waste disposal receipts showing that the burned material has been properly disposed of. Please provide your written commitment to cease open burning in the future. I have enclosed an open burning fact sheet for your reference.

Please note that failure to provide the requested information may result in escalated enforcement action. If you have any questions regarding this letter, please contact me at (920) 662-5407 or by email at: jeremiah.schiefelbein@wi.gov.

Sincerely,



Jay Schiefelbein
Agricultural Runoff Management Specialist

Encl: Open Burning Fact Sheet
Section 630 Seeding

cc: T. Bauman – Madison
R. Stoll – Green Bay
C. Jones – Oshkosh
D. Wetenkamp – Brown County LCD
file